

State of Texas  
House of Representatives

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RQ-358



GARY L. WATKINS  
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March 17, 1992

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The Honorable Dan Morales  
Attorney General  
P.O. Box 12548  
Austin, Texas 78711-2548

Opinion Committee

Dear General Morales:

On behalf of Representative Rodriguez, I would like to request an Attorney General's opinion concerning actions taken by the Alamo Community College district board. I have enclosed for your reference a summary of the issues and several clippings. If anything further is needed please contact either Representative Rodriguez or myself.

Thank you for your assistance in this matter.

Sincerely,

*Gary L. Watkins*

Gary L. Watkins

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Atty Gen'l

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Dear :

The purpose of this correspondence seeks an Attorney General Opinion concerning a matter of great concern. Please consider the following.

#### MATERIAL FACTS

Recently, the Alamo Community College District (hereinafter "ACCD") through its Board decided not to renew the school's Chancellor, Mr. Ivory Nelson's contract for the following year. Notwithstanding this decision including criticism from faculty, administrators, and students, the Chancellor received a salary increase of \$10,000.

Thereafter, on February 13, 1992, all Board members, including Chairman of the Board Doug Harlan, entered into closed door Executive session to deliberate on the appointment of an Interim Chancellor at a regular Board meeting. After the Executive session, the Board reconvened and declared Chairman Harlan Interim Chancellor for eighteen (18) months. Members of the public seeking to testify against the placement of Chairman Harlan as Chancellor were precluded from presenting their concerns.

As Interim Chancellor, Chairman Harlan will receive the new salary (\$117,300). After a new Chancellor is hired, Chairman Harlan is expected to move into a Press Relation position. Please recognize the Press Relation position is currently filled. In conformance with this most recent assignment, Chairman Harlan was expected to resign from the Board March 1, 1992. He becomes Interim Chancellor March 15, 1992.

#### ISSUES

Assuming the board facts occurred, I request an Attorney General Opinion specific to the following:

- (1) Whether the closed door Executive session at a regular meeting violated the prohibition on governmental bodies from holding meetings closed to the public? See, e.g., Texas Civ. Prac. Sec. 6252-17 (Vernon 1991).
  - (a) Whether the Board provided proper notice to the public before the meeting as required by Art. 6252-17?
  - (b) Whether a Board member can resign from the Board and within the same session become interim Chancellor?
  - (c) Whether a board member and/or chairperson resigning in exchange for the Interim Chancellor position violates the Texas Non-Profit Act or any other statute?
- (2) Whether a conflict of interest occurred?
  - (a) Whether a Board breaches its fiduciary duty to act within the best judgment of its school district in entering into a closed session at a regular meeting?
- (3) Whether the actions are legally voidable?

Given the seriousness of the above, I would appreciate your prompt attention to the above request.